

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ed-george a/k/a EDMOND PARENTEAU

Plaintiff,

v.

Civil Case No. 1:09-CV-0869
(GTS/DRH)

KATHLEEN BURNS; ANTHONY
KALIMERAS; JEFF COHEN; DARRELL
DAY; and TOWN OF LLOYD,

Defendants.

APPEARANCES:

OF COUNSEL:

ed-george a/k/a EDMOND PARENTEAU
Registration No. 17901-052
Plaintiff, *Pro Se*
MCC New York
Metropolitan Correctional Center
150 Park Row
New York, NY 10007

BAILEY, KELLEHER LAW FIRM
Counsel for Defendants
Pine West Plaza 5, Suite 507
Washington Avenue Extension
Albany, NY 12205

CRYSTAL R. MENNILLO, ESQ.

HON. GLENN T. SUDDABY, United States District Judge

DECISION and ORDER

This is a *pro se* civil rights action filed by ed-george also known as Edmond Parenteau (“Plaintiff”) on July 29, 2009, against eighteen individuals and entities, with the only remaining Defendants at this time being Kathleen Burns, Anthony Kalimeras, Jeff Cohen, Darrell Day and the Town of Lloyd (“Defendants”).

On September 8, 2009, this Court issued a Decision and Order conditionally granting Plaintiff's motion to proceed *in forma pauperis*, directing that Plaintiff resubmit an *in forma pauperis* application that complies with the requirements of 28 U.S.C. §1746 or pay the filing fee of three hundred and fifty dollars (\$350). (Dkt. No. 12.) The Decision and Order provided that, if Plaintiff failed to do one of these two things, his *in forma pauperis* status would be revoked and his entire Complaint would be dismissed without further order of the Court pursuant to Fed. R. Civ. P. 41(b), Local Rule 5.4(b) of the Local Rules of Practice for this Court, and the Court's inherent power to manage its docket. (*Id.*) The Decision and Order further directed Plaintiff to advise the Court within thirty days of the date of the Decision and Order as to the status of the criminal proceedings brought against him relating to this action, and that failure to provide such a status letter to the Court within thirty days would result in his claims against Defendants Town of Lloyd, Burns, Kalimeras, Cohen and Day to be *sua sponte* dismissed by the Court without prejudice for lack of ripeness. (*Id.*)

On September 23, 2009, Plaintiff appealed the Court's Decision and Order to the Second Circuit Court of Appeals. (Dkt. No. 14.) On July 8, 2010, the Second Circuit Court of Appeals issued a mandate dismissing Plaintiff's appeal on the ground that it was frivolous, lacking an arguable basis in law or fact. (Dkt. No. 22.) On August 18, 2010, this Court issued a Text Order directing that Plaintiff shall, by September 17, 2010, comply with the terms of the Court's Decision and Order of September 8, 2009, and that his failure to do so shall result in this action being dismissed without further order of the Court. As of today's date, Plaintiff has failed to comply with the Court's orders.

For the foregoing reasons, Plaintiff's *in forma pauperis status* is revoked and his Complaint is *sua sponte* dismissed in its entirety without prejudice pursuant to Fed. R. Civ. P. 41(b), Local Rule 5.4(b) of the Local Rules of Practice for this Court, and the Court's inherent

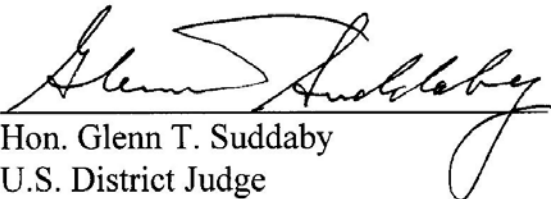
power to manage its docket. The Court notes that it has carefully weighed the five factors considered by the Second Circuit when reviewing a district court's order to dismiss an action for failure to prosecute (or failure to obey a court order) under Fed. R. Civ. P. 41(b), and it finds that each of those factors weighs decidedly in favor of dismissal under the circumstances. *See Hevner v. Village East Towers, Inc.*, No. 07-5608, 2008 WL 4280070, at *1-2 (2d Cir. Sept. 18, 2008).

ACCORDINGLY, it is

ORDERED that Plaintiff's Complaint (Dkt. No. 1) is *sua sponte* **DISMISSED** in its entirety without prejudice, and the Clerk of the Court is directed to enter judgment in favor of Defendants; and it is further

ORDERED that a copy of this Decision and Order be mailed to Plaintiff at both his address of record in this action, as well as the General Post Office in Kearny, NJ 07032.

Dated: October 27, 2010
Syracuse, New York


Hon. Glenn T. Suddaby
U.S. District Judge